

## **REMARKS**

Reconsideration of the application is respectfully requested.

The following remarks address the issues in the order in which they have been raised in the Office Action.

### **Claim Objections**

Claim 17 was objected to for lacking antecedent basis for the term "heat source". The claim has been amended to obviate the objection, removing the term "heat source".

### **Claims Rejected Under 35 U.S.C. §112**

Claim 17 also stands rejected as referring to subject matter that is allegedly not supported in the Specification as filed. As indicated above, however, this claim has been amended to not refer to the "heat source", thus obviating this rejection.

### **Claims Rejected Under 35 U.S.C. §102**

Claims 1-4, 22-25, and 30 stand rejected as being anticipated by U.S. Patent No. 3,804,077 issued to Williams ("Williams"). Applicant respectfully disagrees with the rejection for the following reasons.

Beginning with claim 1, *a pad for treating eye conditions* is recited in which a multipart container has an impermeable outer membrane *sized to fit generally within a peri orbital region and sufficiently flexible to mold to the eye*. Chemicals in the container are selected to have an exothermic reaction when mixed, *for producing a temperature suitable for treating eye conditions, the reaction providing the suitable temperature for a period of time suitable for treating eye conditions*. Williams does not teach or suggest such a pad.

In Williams, a hot or cold pack is provided for applying heat or cold to localized positions of a person's body. In prior packs, the materials reacting chemically have remained in constant contact with each other until one of the materials has been consumed. **Various means have been provided for slowing the chemical reaction to**

increase the time during which the pack can be effective to transfer heat, but such means have not been completely effective. Williams, col. 1, lines 30-39. The problem that is addressed in Williams is that of applying a pack to a convex surface such as the top of a leg. With the pack so oriented, each side extends down over the sides of the leg, and the materials in the pack have naturally tended to flow to these lower regions. This results in the generation of heat or cold at lower regions, with no generation at the top of the pack where the heat has been primarily desired. Williams, col. 1, lines 40-49.

Thus, Williams does not concern itself with the problems associated with applying a hot pack to the peri orbital region for treating eye conditions. Rather, Williams deals with the problem of **relatively large** hot packs which, when applied to a convex surface, result in the materials in the pack flowing to the lower regions, leaving the central region lacking in the ability to produce the needed heat. Applicant submits that no such problem is present if the pack were sufficiently small to fit within the peri-orbital region. Thus, because Williams addresses a different problem, it would not teach or suggest one of ordinary skill that its hot pack be used for treating eye conditions. Accordingly, claim 1 has been amended to further clarify this point, without introducing any new matter. See, e.g. Applicant's Fig. 7. The claim now recites a small enough pad that is not taught or suggested by Williams.

The Office Action also rejects Applicant's claim 22 as being anticipated by Williams, stating that Williams also discloses Applicant's claimed *handle*. However, upon further review of Williams, no such *handle* is found to be taught. For instance, Fig. 1a of Williams does not show such a *handle*.

As to claim 24, this claim recites several limitations on the size of an airtight bag containing an exothermic heat source that is selected to provide the bag with a temperature (and duration) suitable for treating eye conditions. These are not taught or suggested by the relatively large hot pack of Williams. The Williams pack is so large that it hangs over the sides of the convex region it is intended to treat, causing the hot pack material to collect over the sides of the convex region, thereby depriving its top of heat. This is not an issue with Applicant's bag as it is recited in claim 24.

### Claims Rejected Under 35 U.S.C. §103

Claims 1, 3-17, and 24-28 stand rejected as being obvious in view of WO 93/10019 with inventor Farmer ("Farmer"). According to the Office Action, the only difference between claim 1 and the teachings of Farmer is *the first and second chemicals are selected to have an exothermic reaction when mixed for producing a temperature suitable for treating eye conditions*. It would allegedly been obvious to modify the chemicals of Farmer because it has been held that substitution of one personal use chemical for another requires only a level of ordinary skill in the art. Applicant, however, respectfully requests that the Examiner provide an authority for such a broad holding.

In addition, a closer look at Farmer reveals that the multi-compartment package of Farmer is intended to be **opened**, following the mixing of the components therein. According to Farmer, it's multi-compartment package is designed such that one of the compartments also contains a textile component which is impregnated with the liquid mixture, before the package is opened. After opening, the impregnated textile component is employed as a wiping cloth. See Farmer, page 1, Disclosure of the Invention section. This "teaches away" from placing exothermic heat source materials in the Farmer package, because one of ordinary skill would not consider using such a textile component, which has been impregnated with the heat source material, for treating eye conditions. The chemicals used for obtaining such a heat source, at the time of Applicant's filing, are not suitable for being impregnated within a textile cloth that is then placed in contact with the eyelid. It would therefore not make sense to place an exothermic heat source, that is designed for treating eye conditions, inside the multi-compartment package of Farmer.

As to claim 5, this claim as amended here, is not obvious. The textile component of Farmer is actually inside the package, in contrast to Applicant's claim 5 as amended here, which refers to the absorbing material as being attached to the *outside of the multipart container*.

Regarding the rejection of claim 24 (which according to the Office Action would be similar to the rejection of claim 1), Applicant submits that claim 24 as amended here, is not taught or suggested by Farmer. One of ordinary skill would not consider putting

exothermic heat source materials that develop an amount and duration of heat needed for treating eye conditions, into the multi-compartment package of Farmer. That is because Farmer teaches that such a package be openable to extract an impregnated textile component therefrom and use it as a wiping cloth. It would not make sense to then use such an impregnated textile component as a wiping cloth.

Regarding claim 27, this claim is also not obvious in view of Farmer, because Farmer does not teach or suggest attaching its textile component to the outside of the package (where this textile component can be soaked with a detergent suitable for contact with and treatment of eyelids). Although the textile component of Farmer will be impregnated with a disinfecting composition following the mixture of the two components inside the package, this textile component is *inside* the package. The package needs to be opened to remove the textile component (now impregnated with the mixture) before use. Applicant's claim 27, however, requires that the piece of material that is presoaked with a detergent be attached to the *outside* of the airtight bag (that contains the heat source materials). Accordingly, reconsideration and withdrawal of the rejection in view of Farmer is requested.

Any dependent claims not mentioned above are submitted as not being anticipated or obvious, for at least the same reasons given above in support of their base claims.

It should be noted that not all of the assertions made in the Office Action, particularly those with respect to the dependent claims, have been addressed here, in the interest of conciseness. Applicants reserve the right to challenge any of the assertions made in the Office Action by the Examiner, with respect to the relied upon art references and how they would relate to Applicants' claim language.

### CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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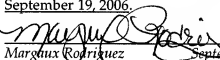
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Margaux Rodriguez September 19, 2006